

US Serial No. 10/510294
Page 5 of 10

Remarks:

Regarding the rejection of claims 1-14 under 35 USC 112, 2nd paragraph:

The presently amended claims are believed to fully address and overcome the Examiner's grounds of rejection.

Applicant's newly added claims 15 and 16 find full support in applicant's specification as published, see para. [0017] thereof.

Regarding the rejection of claims 1-2, 4-14 under 35 USC 102(b) in view of US 3698095 to Grand et al. (hereinafter "Grand"):

The applicant respectfully traverses the rejection of the foregoing claims in view of the Grand reference.

With regard to the claims under rejection, and prior to discussing the relative merits of the Office's rejection, applicant points out that unpatentability based on "anticipation" type rejection under 35 USC 102(b) requires that the invention is not in fact new. See *Hoover Group, Inc. v. Custom Metalcraft, Inc.*, 66 F.3d 299, 302, 36 USPQ2d 1101, 1103 (Fed. Cir. 1995) ("lack of novelty (often called 'anticipation') requires that the same invention, including each element and limitation of the claims, was known or used by others before it was invented by the patentee"). Anticipation requires that a *single reference* [emphasis added] describe the claimed invention with sufficient precision and detail to establish that the subject matter existed in the prior art. See, *In re Spada*, 911 F.2d 705, 708, 15 USPQ2d 1655, 1657 (Fed. Cir. 1990).

The applicant traverses the Examiner's interpretation of the claim term "frame" to extend to a cylindrical body. With regard to this term "frame", the applicant recites in his (published) specification:

US Serial No. 10/510294
Page 6 of 10

[0025] According to a preferred embodiment of the present invention, the support as defined herein comprises a frame. Most preferably, the frame is an endless frame. More preferably, a part of the flexible substrate is attached, preferably releasably attached, to the frame. Suitably, securing the flexible substrate in a frame may increase and maintain the effective surface area of the flexible substrate for contacting laundry during use, compared to a substrate not secured in a frame. Suitably, increased amounts of fabric treatment agent may be dispersed from and more uniformly throughout the laundry from the device compared to a flexible substrate not secured in a frame.

Grand's cylindrical tube bearing the paper substrate covering the external wall of a tube is not properly understood to be a "frame" such as is discussed and disclosed by the instant applicants. Reference is also made in the present application to the following passage from applicants published specification paragraph [0026]:

rigid support. In the alternative where the rigid support attaches to the flexible substrate then it may take simple forms such as a cross or a frame. In the alternative where the

as well as:

[0056] FIG. 1 shows a non-woven cellulose derived cloth having surfactant, solvent and fragrance impregnated (2) held in a rigid oval-shaped plastic frame (4). As is more

Grand's cylindrical tube at best, bears upon its exterior wall the paper-based substrate which it describes however as it is quite clearly seen, Grand's tube also defeats any benefit as to improve distribution of its fabric treating materials in fact when one side of Grand's sachets exposed, while the other is abutting the facing exterior wall which shields it. In contrast, in preferred embodiments, the applicants open "frame" provides for improved release of the fabric treatment composition within the fabric treatment machine, and manner not possible with the Grand's cylindrical tube. The attention of the Office is further directed to the following teachings provided only by the instant applicants:

US Serial No. 10/510294
Page 7 of 10

[0017] Suitably, the rigid support may maintain the flexible substrate in an uncrumpled form during the process of the present invention. In particular, the rigid support may maintain the flexible substrate in a substantially flat orientation, whilst permitting the flexible substrate to flex between moderately concave forms. This may not only permit increased delivery of the fabric treatment agent from the substrate but also it may promote uniform delivery of the fabric treatment agent to the fabric (in typically, throughout the laundry load of multiple fabric articles), thereby resulting in an increased even dispersal of the fabric treatment agent to the fabric.

it is clear then that the improved delivery characteristics of the fabric treatment agent provided by a device is according to the presently claimed invention provide a significant technical vantage, one which is impossible to achieve by the Grand device which simply stated has a completely different geometric configuration which consequently completely shields a surface of the paper substrate which diminishes even the possibility of the utility of this substrate surface in any fabric treatment process due to the arrangement of Grand's device.

Reconsideration of the propriety of the rejection, and its withdrawal, is respectfully requested.

Regarding the rejection of claim 3 under 35 USC 103(a) in view of US 3698095 to Grand et al. (hereinafter "Grand") further in view of US 4254139 to Hendrickson, et al. (hereinafter "Hendrickson"):

The applicant respectfully traverses the rejection of claim 3 in view of the combined Grand and Hendrickson references.

The sake of brevity, the applicant herein repeats and incorporates by reference all of the foregoing remarks made with reference to the Grand preferences being similarly applicable to the instant grounds of rejection.

US Serial No. 10/510294
Page 8 of 10

Turning now to Hendrickson, the Examiner cites this reference for the proposition of illustrating a further embodiment of a dispensing conditioner for fibrous materials. With regard to the actual construction of "laundry conditioner dispensing article", Hendrickson clearly teaches a column 3 the following:

In FIG. 1, a conditioner article in accordance with 33 the invention and generally designated 2 comprises a base sheet 4 of magnetized rubbery polymer (soft rubber) joined by adhesive 6 (e.g. pressure sensitive, hot melt, etc. to a sorptive porous top sheet 8 having pores 9, e.g. polyurethane foam of the closed cell or open, 60 intercommunicating cell type. Rubbery polymer layer 4 and outer layer 8 are bonded along their peripheral

It is clear from a further reading of the Hendrickson reference, that the function of this "base sheet 4 of magnetized rubbery polymer" is a critical feature of Hendrickson's invention as the function of the magnetized rubbery polymer is to ensure Hendrickson's article is retained at a specific fixed location within the interior of the laundry dryer pair more specifically this is recited at column 4 in the following passage which states:

In accordance with the invention, layer 4 comprises a 15 rubbery, polymeric sheet material magnetized by the inclusion of magnetic material therein, e.g. a bar magnet or dispersed, magnetized particles. The latter may be substantially uniformly dispersed throughout layer 4 or in such manner as to provide a greater concentration 20 thereof in the outer portions, i.e. in the immediate vicinity of outer surface 22 of layer 4. This insures a strong magnetic bond as between surface 22 and an inner metallic wall portion of the dryer, when mutually contacted, sufficient to hold conditioner article 2 in place 25 throughout the fabric treatment and thereafter as desired. The rubbery polymeric material of layer 4 is preferably of the soft rubber type and thus sufficiently flexible or pliant to be conformed to and fit tightly against the mating surface portion of the dryer, i.e. in form 30 retaining relationship therewith. These materials are

It is plainly seen from her review of the foregoing that the adhesion between Hendrickson's article is a critical feature of his invention, particularly in light of the mode

US Serial No. 10/510294
Page 9 of 10

of operation of the article. This is recited by Hendrickson later at column 5 in the passage which reads:

agent. Sponge layer 26 may be substantially form-retaining or flexible provided that the impact forces incident thereupon when in place in the dryer, due to contact with the tumbling fabrics, suffice to force the conditioner outwardly of sponge layer 26 and into contact with the fabrics. Particulate forms of solid or

Again, it's quite clear that Hendrickson's article also only exposes one surface and not both surfaces of his article. Furthermore, it appears also that the degree of successful distribution of any treatment agent from within Hendrickson's article to fabrics are close articles calmly within a dryer are wholly dependent upon the likelihood that they directly impact upon the exposed upper surface of Hendrickson's article. Hendrickson's article, being too magnetically affixed to a fixed position within the interior wall on a dryer does not, nor cannot move amongst the fabric articles within the dryer. Still further, Hendrickson's article requires that a "rubbery, polymeric sheet" be necessarily present; this "sheet" however is also required to be impervious as recited in column 3 of the following passage:

35 Hydrocarbon rubbers are ordinarily preferred being of an inert character. The rubber selected should, of course, be immune to the effects of the solvent medium present in the dryer at the temperature prevailing therein.

Thus, this "robbery, polymeric sheet" act as a barrier layer and denies the release of any solvent medium therethrough.

It is the applicant's contention that the Examiner's proposed combination of the Grand and Hendrickson devices denied to speak, nor more importantly rendered the currently claimed invention is being obvious, particularly in light of the limitations required according to claim one.

Accordingly, reconsideration of the propriety of the outstanding rejection, and its withdrawal, is respectfully requested.

US Serial No. 10/510294
Page 10 of 10

RECEIVED
CENTRAL FAX CENTER

JUL 11 2008

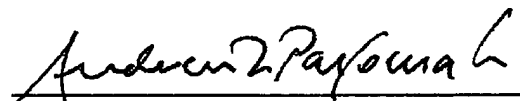
In view of the foregoing remarks, reconsideration of the rejections raised by the Examiner is respectfully requested, and early issuance of a *Notice of Allowance* is solicited.

Should the Examiner in charge of this application believe that telephonic communication with the undersigned representative would meaningfully advance the prosecution of this application towards allowance, the Examiner is invited to contact the undersigned at their earliest convenience.

CONDITIONAL AUTHORIZATION FOR FEES

Should any further fee be required by the Commissioner in order to permit the timely entry of this paper, the Commissioner is authorized to charge any such fee to Deposit Account No. 14-1263.

Respectfully Submitted;



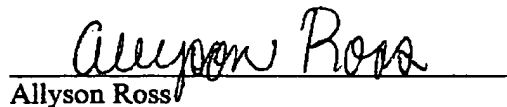
Andrew N. Parfomak, Esq.
Reg. No. 32,431
Norris, McLaughlin & Marcus, PC
875 Third Avenue, 18th Floor
New York, NY 10022

11 July 2008
Date:

Tel: 212 808-0700

CERTIFICATE OF TELEFAX TRANSMISSION UNDER 37 CFR 1.8

I certify that this document, and any attachments thereto, addressed to the:
"Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450" is being
telefax transmitted to (571) 273-8300 at the United States Patent and Trademark Office.


Allyson Ross

11 July 2008
Date

C:\ANPCMB\102792355\Amendment01.doc